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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,740	10/22/2003	David E. Clement	MAGD.01P	2739
23732	7590	06/10/2004	EXAMINER	
KENEHAN & LAMBERTSEN, LTD 1771 E. FLAMINGO ROAD SUITE 211-B LAS VEGAS, NV 89119-5154			SNIDER, THERESA T	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,740

Applicant(s)

CLEMENT ET AL.

Examiner

Theresa T Snider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/17/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: 76[0022] and 102[0026]. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claims 1-9, line 1, 'improved' should be deleted.

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Claim 1, line 5, it appears that Applicant is intending to set forth a Jepson claim.

Therefore, line 1, "an" should be replaced with "In an".

Claim 5, line 2, it is unclear as to whether the "a plurality of spray nozzles" are in addition to that of claim 1, line 8 or one in the same.

Claim 7, line 3, it appears that Applicant is intending to set forth a Jepson claim.

Therefore, line 1, "an" should be replaced with "In an".

Claim 8, line 2, it is unclear as to whether the "a pair of vacuum shoes" are in addition to that of claim 7, line 4 or one in the same.

Claim 9, line 2, it is unclear as to whether the "a plurality of vacuum shoes" are in addition to that of claim 7, line 4 or one in the same.

Claim 10, lines 1 and 4, it is unclear as to what constitutes "soft";

Line 7, "transversely" relative to what?

Claims 11-14, line 1, "A" should be replaced with "The".

Claim 11, line 2, it is unclear as to whether the "a pair of vacuum shoes" are in addition to that of claim 10, line 14 or one in the same.

Claim 14, line 2, it is unclear as to whether the "a plurality of spray nozzles" are in addition to that of claim 10, line 9 or one in the same.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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((b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 7 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dolan et al..

Dolan et al. discloses a vacuum blower (col. 2, line 13).

Dolan et al. discloses a waste reservoir (col. 2, line 38-39).

Dolan et al. discloses a vacuum shoe that is selectively downwardly biased and is in fluid communication with the blower and waste reservoir (col. 2, lines 41-46 and col. 4, lines 39-45).

6. Claim 7 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fellhauer et al..

Fellhauer et al. discloses a vacuum blower (fig. 1, #34).

Fellhauer et al. discloses a waste reservoir (fig. 1, #28).

Fellhauer et al. discloses a vacuum shoe that is selectively downwardly biased and is in fluid communication with the blower and waste reservoir (col. 3, lines 16-18 and col. 5, lines 11-23).

7. Claims 7-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Romaniuk.

Romaniuk discloses a vacuum blower (col. 2, lines 41-42).

Romaniuk discloses a waste reservoir (fig. 2, #3).

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Romaniuk discloses a vacuum shoe that is selectively downwardly biased and is in fluid communication with the blower and waster reservoir (col. 2, lines 26-41 and 46-47).

With respect to claims 8-9, Romaniuk discloses a pair/plurality of shoes that are attached to one another (fig. 1, #16,17,19,13).

8. Claims 10 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Boomgaarden.

Boomgaarden discloses a frame (fig. 1, #12).

Boomgaarden discloses a means to move the frame along a path (col. 2, lines 36-31).

Boomgaarden discloses a pair of surface engaging rotary tools (fig. 1, #16).

Boomgaarden discloses at least one spray nozzle mounted on the frame in advance of the tools (fig. 1, #28).

Boomgaarden discloses a surface engageable vacuum shoe (fig. 1, #30).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted State of the Prior Art as set forth in the Preamble of the Jepson Claim(hereafter ASPA) in view of Hahnl.

Hahnl discloses a pair of counter-rotating cylindrical brushes attached to a raisable platform ([0031-0031]). It would have been obvious to one of ordinary skill in the art to provide the brushes of Hahnl in ASPA to allow for the most effective cleaning of a surface.

Hahnl discloses a liquid spray nozzle attached forward of the brushes and in fluid communication with a cleaning solution reservoir (fig. 1, #13, [0035]).

With respect to claim 2, Hahnl discloses a pump located intermediate the nozzle and the reservoir ([0035]).

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With respect to claim 3, Hahnl discloses the nozzle attached to a raisable brush platform ([0031]).

13. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellhauer et al. in view of Kasper('488).

Fellhauer et al. discloses a similar cleaning machine except for a pair of counter-rotating brushes.

Fellhauer et al. discloses a cleaning solution reservoir (fig. 1, #20).

Fellhauer et al. discloses a vacuum blower (fig. 1, #34).

Fellhauer et al. discloses a waste water holding tank (fig. 1, #28).

Fellhauer et al. discloses a raisable power brush platform located between front and rear support wheels (col. 3, lines 10-11).

Fellhauer et al. discloses a cylindrical, rotating brush attached to the platform (fig. 1, #26). Kasper('488) discloses a cleaning machine having a raisable power brush platform with a pair of counter-rotating brushes (fig. 4, #45-48 and fig. 7, #45,88,95). It would have been obvious to one of ordinary skill in the art to provide the pair of counter-rotating brushes of Kasper('488) in Fellhauer et al. to ensure for the most effective scrubbing of a surface and removal of material from the surface.

Fellhauer et al. discloses a liquid spray nozzle attached forward of brush (col. 4, lines 33-34).

With respect to claim 2, Fellhauer et al. discloses a pump between the nozzle and reservoir (fig. 1, #20,22,25).

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With respect to claim 3, Fellhauer et al. discloses the nozzle attached to the platform (fig. 3, #19,55,51).

With respect to claim 4, Fellhauer et al. discloses a liquid spray manifold in communication with the pump and nozzle (fig. 5, #25,55).

With respect to claim 5, Fellhauer et al. discloses a plurality of spray nozzles (fig. 5, #55).

With respect to claim 6, Fellhauer et al. discloses the manifold attached to the platform and the nozzle attached to the manifold (fig. 5, #25,19,51).

14. Claims 11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boomgaarden as applied to claim 10 above, and further in view of Romaniuk.

Boomgarden discloses a similar scrubbing machine however fails to disclose a pair of vacuum shoes or a plurality of spray nozzles.

Romaniuk discloses a cleaning machine with a pair of surface engaging shoes that are attached to another and able to articulate relative to each other (fig. 1, #16,17,19,13). It would have been obvious to one of ordinary skill in the art to provide the plurality of shoes in Boomgaarden to allow for greater suctioning of material by having several discrete areas rather than one large area to suction therefrom.

With respect to claim 13, Boomgaarden discloses the rotary tools counter-rotate relative to each other (col. 2, lines 17-22, as evidenced by Kasper)

With respect to claim 14, Boomgaarden discloses a plurality of spray nozzles (col. 2, lines 27-28).

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Allowable Subject Matter

15. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hekman et al. discloses a surface-engageable vacuum tool with counter-rotating brushes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Wednesday-Friday(6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Theresa T Snider
Primary Examiner
Art Unit 1744

6/4/2004